

Amendments to the Drawings:

Please substitute the attached 7 sheets (Figures. 1-9) of formal drawings for the informal drawings originally filed with the application. A separate Transmittal of Formal Drawings is submitted.

The drawing sheets attached in connection with the above-identified application containing Figures 1-9 are being presented as new formal drawing sheets to be substituted for the previously submitted drawing sheets. The drawings (Figures 7 and 8) have been amended to include a new reference numeral 63 and to remove erroneous reference numeral 62.

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraph [0055] on page 14 has been amended to correct an error with respect to reference numeral 63. No new matter is added.

Claims 14 and 21 are currently being amended to correct a drafting error and to clarify the scope of the claims. The amendments are non-limiting. No new matter is added.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-17 and 21-23 remain pending in this application.

In paragraphs 1 and 2 of the Office Action, claims 4-6, 8, 9, 14-17, 21 and 22 are rejected under 35 U.S.C. § 112, first paragraph. The Examiner state:

The drawings, especially Figs. 3-9 are of such a poor quality that is difficult to understand the Specification and the Claims.

Applicant respectfully traverses the rejection.

However, to advance prosecution, Applicant has submitted 7 sheets of formal drawings for Figures 1-9. Applicant believes that the formal drawings are of high quality. No new matter is added. A correction with respect to reference numeral 63 is included in Fig. 7 and 8. The specification is also amended to reflect that correction. No new matter is added in the amendment to the specification or the drawings. Accordingly, withdrawal of the rejection of claims 4-6, 8, 9, 14-17, 21 and 22 under 35 U.S.C. § 112, first paragraph is respectfully requested.

In paragraphs 3-4 of the Office Action, claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,637,221 (Levine) in view of 4,019,689 (Hunt). The Examiner states:

Levine discloses the claimed invention except the speed control allowing the motor to be ramped up. Hunt teaches a blender which has a continuously variable speed control for the motor. . . . Thus, the speed control of Hunt inherently ramps up the speed of the motor. It would be obvious to modify Levine so that the speed control ramps up the speed of the motor, in view of Hunt, for the purpose of providing more precise control of the motor.

Applicant respectfully traverses the rejection.

With respect to independent claim 1, the motor control for the ice cream machine includes a speed control that allows the motor to be ramped up from a zero speed across a spectrum of speeds to a production speed. This feature provides significant advantages. For example, the present application states:

Variable speed motor drive or circuit 48 provides significant advantages. Circuit 48 can allow motor 46 to start at a lower rpm and ramps up to required rpms, thus reducing mechanical component wear . . . Further, the use of circuit 48 can allow for soft starts and stops as well as limiting motor 46 to reduce quick starts and stops in machine 10.

See present application, paragraph 34. Accordingly, the speed control provides advantages specific to ice cream chilling, mixing and freezing applications.

The Examiner admits that Levine does not teach the advantageous speed control. The Examiner relies upon Hunt for a teaching of a speed control. However, Hunt is for a chopper device and is not at all related to an ice cream machine. Further, Hunt appears to only describe a manually controlled speed control. This speed control would not ramp up speed from the zero speed across the spectrum to a production speed. Rather, it would rely on a human being to turn the speed control. Accordingly, Hunt is ignorant of the advantages of the automated speed

control of the present application. Therefore, it is respectfully requested that independent claim 1 and its dependent claims 2-3 are patentable over Levine and Hunt.

In paragraph 5 of the Office Action, claims 4-6, 9, and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine in view of Patent No. 3,928,646 (Cannell). The Examiner states:

Levine discloses the claimed invention except for the separate inlets for the ice cream and inclusions. Cannell teaches a mixer having separate inlets 20 for the main ingredients and 11 for the inclusions. It would be obvious to provide Levine with separate inlets for the ice cream mix and inclusions, in view of Cannell, for the purpose of providing distinct inlets for the different ingredients.

Applicant respectfully traverses the rejection.

With respect to independent claim 4, Applicant respectfully traverses the rejection because the combination of Levine and Cannell is improper. First, Cannell is completely unrelated to an ice cream machine. Cannell is related to a bread making machine and has completely different application parameters to that of an ice cream machine. Second, Cannell is completely unrelated to the provision of solid or semi-solid inclusions for ice cream. These differences make the combination improper.

Cannell appears to have two inputs. One is a main dry ingredient input for bread. The dry ingredient is typically flour. Flour is clearly not an inclusion for ice cream. The second input is a liquid input for shortening. Shortening is provided in a semi-liquid or paste-like form. The shortening is not an inclusion for ice cream. Accordingly, there is no reason for one of ordinary skill in the art to combine the ice cream machine of Levine with the dough machine of Cannell. Thus, it is respectfully submitted that independent claim 4 and its dependent claims 5-6 and 8-9 are patentable over Levine and Cannell.

Claim 14 has been amended to correct a drafting error. No new matter is added. Entry of the amendment is respectfully requested as it clarifies the claim. Claim 14 is patentable for the

same reasons discussed above with respect to claim 14. Accordingly, withdrawal of the rejection of claim 4 and its dependent claims 15-17 is respectfully requested.

In paragraph 6 of the Office Action, claims 8, 15-17, 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine in view of Cannell and Hunt. Applicant respectfully traverses the rejection.

With respect to claim 21, Applicant respectfully submits that claim 21 is patentable because the combination of Cannell and Levine is improper for the same reasons discussed above. In addition, Applicant respectfully submits that Levine, Cannell and Hunt in combination do not teach that the inclusions input is closer to an ice cream output than to the ice cream input.

As admitted by the Examiner, Levine does not disclose separate inlets for the ice cream and inclusions. The Examiner relies on Cannell for such a teaching. According to the Examiner's interpretation, inlet 20 and inlet 11 of Cannell are synonymous with separate inlets for main ingredients and inclusions. However, inlet 20 is clearly closer to the main ingredient input 11 and therefore is directly contrary to the language of the claim. In this way, Cannell even teaches away from claim 21. Claim 21 specifically recites that the inclusion input is closer to the ice cream output than to the ice cream input. Hunt does not rectify the deficiency of Cannell. Accordingly, it is respectfully submitted that claim 21 and its dependent claim 22 is patentable over Hunt, Cannell and Levine.

With respect to independent claim 23, independent claim 23 recites that the aperture for the semi-solid inclusions aperture is near an output of a tank. Clearly, Cannell, Levine and Hunt do not provide such an aperture. Under the Examiner's interpretation of Cannell, inlet 20 of Cannell is considered an aperture for inclusions. However, inlet 20 is not near outlet 12 of the dough machine. Accordingly, it is respectfully submitted that claim 23 is patentable over Levine, Hunt and Cannell.

In paragraph 7 of the Office Action, the Examiner indicates that claim 7, 10-13 and 23 are allowed.

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Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

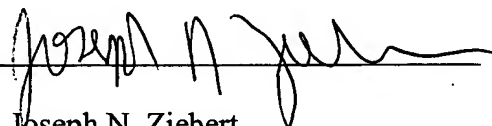
Respectfully submitted,

Date

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